

**NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT  
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE  
RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.**

FILED BY CLERK

APR -9 2009

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,

Appellee,

v.

MIKAL OMAR RASUL,

Appellant.

2 CA-CR 2008-0329

DEPARTMENT B

MEMORANDUM DECISION

Not for Publication

Rule 111, Rules of  
the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-41583

Honorable John S. Leonardo, Judge

AFFIRMED

R. Lamar Couser

Tucson  
Attorney for Appellant

E C K E R S T R O M, Presiding Judge.

¶1 Appellant Mikal Rasul was convicted after a jury trial of attempted fraudulent scheme and artifice and forgery committed in 1993. He appealed, and we affirmed his

convictions but vacated his sentences, remanding the matter for resentencing. *State v. Rasul*, 216 Ariz. 491, ¶ 27, 167 P.3d 1286, 1292 (App. 2007). This appeal follows the resentencing.

¶2 Appellate counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969). Counsel has complied with *State v. Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d 89, 97 (App. 1999), by “setting forth a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” Stating he has reviewed the record without finding meritorious or nonfrivolous issues that might result in a reversal, counsel asks this court to search the record for fundamental error. Rasul has not filed a supplemental brief.

¶3 Pursuant to our obligation under *Anders*, we have reviewed the record relevant to this appeal, that is, the portion of the record related to the resentencing. See *State v. Hartford*, 145 Ariz. 403, 405, 701 P.2d 1211, 1213 (App. 1985) (validity of underlying conviction, previously affirmed on appeal, beyond scope of appeal of resentencing after remand). On remand, the trial court found Rasul’s serious medical condition to be a mitigating factor and resentenced him to an enhanced, presumptive prison term of 6.5 years on his conviction for attempted fraudulent scheme and artifice and a consecutive, enhanced, mitigated term of three years on his forgery conviction, for a total of 9.5 years’ imprisonment. The court ordered that Rasul was to become eligible for release after he had served two-thirds of his sentence and was “to be given credit for ALL days served, including good time and

double-time prior to re-sentencing.” At the resentencing hearing, the trial court stated it anticipated the new sentence would result in Rasul’s release for time already served.<sup>1</sup> Counsel states in his brief that he believes Rasul has in fact been released from prison, based on Rasul’s current mailing address.

¶4 In the event Rasul has been released, this appeal is moot. *See Hartford*, 145 Ariz. at 405, 701 P.2d at 1213 (“[W]hen an entire sentence has been served prior to consideration of that *sole* issue on appeal, the validity of its imposition is a moot question.”). In the event he has not been released, we find no arguable issue of error related to his resentencing. Accordingly, we affirm the trial court’s September 2008 sentencing order.

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PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

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J. WILLIAM BRAMMER, JR., Judge

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GARYE L. VÁSQUEZ, Judge

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<sup>1</sup>At the resentencing hearing, Rasul estimated he had served eleven years of his earlier sentence.